

DEPARTMENT OF WATER RESOURCES

1416 NINTH STREET, P.O. BOX 942836
SACRAMENTO, CA 94236-0001
(916) 653-5791



October 22, 2003

Plenary Group:

The Department of Water Resources is taking the unusual step of attaching this preamble to the correspondence received in response to our discussion at our September 23, 2003 Plenary Group Meeting. As you may recall, at that meeting the Department asked for thoughtful solutions to concerns expressed about the health of the collaborative. We received suggestions from four stakeholders which have been attached.

We hope to have a positive discussion of solutions for the process at our October meeting. However, we believe some of the comments received violate the "respect others" ground rule under which we operate in this process. In particular, among the comments was a characterization of the Department as being "deceitful" and an admonishment to "stop lying".

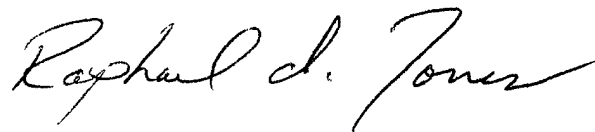
On behalf of the collaborative and all the hardworking professionals and citizen volunteers participating, the Department takes exception to these statements. Our distribution of these comments does not imply in any manner that the Department believes they bring value to our process. Moreover, we believe strongly that there is no basis for making these statements and they run counter to the spirit of our collaborative. In the interest of process transparency, we are distributing the offensive comments, but reserve the right to withhold distribution of inflammatory statements in the future. We also call upon the participants to join the Department in re-affirming our ground rule that disrespectful behavior has no place in our legitimate search to improve our collaborative.

The collaborative is at a critical fork in our road together. If we all want to make progress towards the settlement goal we embarked on over three years ago we have to decide what kind of dialogue will help us reach that goal. I am optimistic that we can reach that goal.

In the Department's view, the health of the collaborative can be improved through the following actions:

- Conduct business with more respect for each other.
- Honor the difficult role of the facilitator.
- Hold others accountable for disrespectful behavior.
- Recognize when to "agree to disagree" and move on.
- Provide specifics when voicing concerns.
- Bring solutions with concerns.
- Abide by ground rules.

Sincerely,

A handwritten signature in cursive script, reading "Raphael Torres".

Raphael Torres, Executive Manager
Oroville Facilities Relicensing Program

Attachments

(COMMENT/RESPONSE
FROM RON DAVIS)

SUGGESTED SOLUTIONS

Oroville, CA
95965
(530) 532-0434

TO PROBLEMS IN THE ALP

- ① All public meetings to be tape recorded — record available to stakeholders.
- ② Stop lying.
- ③ Get a facilitator who will be neutral.
- ④ Return all ~~state~~-held human remains to the families.
- ⑤ Go down the interim projects list down the number that were vetoed by the licensee; and implement them.
- ⑥ Stick with the results of the first Trails TASK FORCE.
- ⑦ Follow FERC directive to reinstate to hiking/equestrian status all trails that were recently changed over to multi-use status.
- ⑧ Recognize rise-water temperature as a relicensing issue.

- ⑨ Stop changing facilities that are being discussed in the AUP for consensus based alterations — no more circumventing the process.
- ⑩ Stop lobbying FERC to circumvent the collaborative process.
- ⑪ Give no status as "stakeholder" to the "contractor": DPR.
- ⑫ No more broken promises or agreements.
- ⑬ No more prejudicial favoritism to "special-interest" stakeholders.
- ⑭ Full recognition of all project impacts: realistic mitigation/protection/enhancement actions to be genuinely considered — do all cumulative impacts studies.
- ⑮ Good-Faith consideration of alternatives to licensee's intended actions for Project.

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(Comments From Ron Davis)

Rick Ramirez
cc: Patti Kroen

10/15/03

Suggestions for restoration
of **TRUST** =

Restore Hiking Equestrian Use
designation to trails that were
improperly (& deceitfully) changed
outside of the Collaborative.
Restore to compliance under current license.
Honor commitments to Interim
Projects approved in The ALP
Collaborative.

Treat participants with respect.
Facilitator must be NEUTRAL.

Interim projects as approved
by Plenary should not be
modified, changed by DWR or any-
one else in any significant
manner.

DO BASELINE & CUMULATIVE STUDIES!!

C. Hodges

FOLLOW
THAT

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ORAC

OROVILLE RECREATION ADVISORY COMMITTEE

October 13, 2003

Mr. Henry M. Ramirez
California Department of Water Resources
Oroville Project Relicensing Program
1416 Ninth St. Room 1115-16
Sacramento, CA. 94236

Re: Oroville Facilities Relicensing, Plenary Group, Unresolved Issues of Concern.

Dear Mr. Ramirez;

At the September 23, 2003 Plenary Group Meeting it was clear that roughly half of the participants continue to have issues of concern about the fairness of the Alternative Licensing Process. These concerns included: lack of confidence in the ALP, distrust of DWR to meet its obligations, distrust of study data and the coming needs analysis, a bias against local priorities, and the oft expressed feeling that local stakeholder input is not as meaningful as it should be. After much discussion, you said that suggestions for establishing local trust in the process would be accepted before October 15th.

As a participant in the ALP, the Oroville Recreation Advisory Committee (ORAC) has discussed these issues for some time. The committee would recommend the following actions to restore confidence in the fairness of the process. Most of these recommendations involve carrying out actions that have already been agreed to in the recent past.

1. Restoration of trails to compliance with the current FERC approved recreation plan through the term of the existing license or until a trails master plan is approved by the ALP collaborative.
2. Complete the 23 Interim Projects as approved by the Plenary Group.
3. Restore monthly attendance and secretarial support to ORAC meetings as long as the committee chooses to maintain this meeting schedule under the provisions of ORAC's "Policies and Procedures".
4. Address the environmental justice issues, particularly relating to the fair distribution of project benefits where low-income populations are impacted.
5. Also address the issue of the large and powerful state agencies overpowering the small local agencies in the settlement negotiations.
6. Reengage the cumulative impacts process, including doing more studies if needed, relating to biological issues, and issues related to economic impacts and benefits to the local community.
7. Engage use of FERC's Dispute Resolution Service to help address the aforementioned issues.

ORAC believes that the best solution to the long standing problems of concern to the local community lies in a fair and balanced ALP. We all have a huge stake in making this ALP work. We hope that the resolution of these issues will help result in a settlement that is developed to the equitable benefit of all.

Sincerely,



Wade Hough, Chairman
Oroville Recreation Advisory Committee
P. O. Box 787
Palermo, CA 95968

Cc: Patty Kroen
All listed ORAC participants
California Governor Arnold Schwarzenegger
US Senator Dianne Feinstein
US Senator Barbara Boxer
US Congressman John Doolittle
US Congressman Wally Herger

FROM :

FAX NO. :

Oct. 15 2003 04:57PM P1

PATRICK PORGANS & ASSOCIATES, INC.

Tel: (916) 374-8197 Fax: 372-7879

P.O. Box 1713, W. Sacramento, CA 95851

October 15, 2003

To: Mary Nichols, Secretary of Resources

Fax: (916) 653-8102

Mike Spears, Interim Director, Department of Water Resources (DWR)

Fax: (916) 653-3028

From: Patrick Porgans

Re: Department's Solicitation for Solution to an Apparent Breakdown in Its Federal Regulatory Commission (FERC) Alternative Relicensing Process (ALP) for the Oroville Division, State Water Project Facilities: Resolution of Impasse Concerning Fairness, Trust and Confidence

Attention: Ralph Torres, Executive Manager, Oroville Facilities Relicensing Program

Fax: (916) 653-9372

At the September 23, 2003 Plenary Group meeting the department solicited "solutions" from the participants to resolve the apparent breakdown in the ALP resulting from the self-imposed shortcomings, inherent conflict of interest, distrust and eroding confidence in the process, which is predominantly the result of the department's management personnel and its facilitator's failure to conduct themselves in a fair and unbiased manner. As a good-faith gesture, and in keeping with Porgans & Associates' (P&A) commitment to ensure the success of the ALP, once again, we offer the following solutions to resolve, what has become, a critical impasse. However, as you know, P&A, and other participants, already initiated action to have a FERC designated person to convene a meeting to resolve these longstanding and unresolved issues in an "alternative dispute resolution forum." FERC informed P&A that it had made contact with you several weeks ago, inquiring as to whether the department is willing to participate in the dispute resolution forum; however, as of 10:15 a.m. (PST) on October 14, 2003, it had not heard back from you. Albeit, P&A offers the following solutions:

● **FAIRNESS and LEVEL-PLAYING FIELD:** First and foremost, DWR personnel need to conduct themselves in a manner consistent with their respective "public trust responsibilities/duties." P&A empathizes with the department and realizes the challenge it is faced with in its conflicting roles as a "public trustee" and as a major water purveyor, whose budget is predominantly dependent on revenues received from its State Water Project (SWP) contractors. Since the onset of the ALP, P&A raised these and other fundamental concerns and conflicts to the department, noting that if the department failed to conduct itself in an unbiased manner then these problems would become axiomatic.

SOLUTION: It is imperative that department personnel simply conduct themselves in a fair and unbiased manner. At this point, P&A suggest that the Governor or the Secretary of Resources appoint an overseer to monitor department personnel activities in the ALP, and when appropriate, provide direction to department personnel and/or replacement personnel/facilitator to ensure the success of the ALP.

● **TRUST:** In order for the department to gain the trust of ALP participants, it needs to conduct itself in a cooperative, open and transparent manner that insures the fulfillment of the "collaborative dream." Contrary to the impression conveyed at the Plenary Group meetings, neither the department nor its water contractors can "buy" trust.

SOLUTION: P&A respectfully submits that trust must be earned, and that it can only be developed by a sincere commitment that ensures that the department personnel will keep their word.

● **CONFIDENCE/DISCLOSURE:** It is one thing to promise change for the future; however, it would be imprudent for participants to lose sight of the fact that the department's past/present failures have and will continue to influence the level of trust and/or confidence it can expect from ALP participants.

SOLUTION: To ensure confidence, Department personnel should provide full disclosure and cooperation to identify and/or mitigate all project impacts, including "cumulative impacts" of the relicensing project. "Walk the Talk" — do what it agrees to do — and stop making excuses and/or sending "mixed messages." Thank you.